

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SCOTT EVERETT PAYNTER, #790603,

Petitioner,

v.

CASE NO. 13-CV-10460
HONORABLE GERALD E. ROSEN

MARY BERGHUIS,

Respondent.

ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION

Before the Court is Petitioner's motion for reconsideration concerning the Court's April 11, 2013 opinion and order denying his motion to stay the proceedings and dismissing without prejudice his petition for a writ of habeas corpus. Petitioner dated his motion on November 15, 2013. He seeks reconsideration due to state court filing problems that have occurred since the issuance of the Court's decision and his concerns about the one-year statute of limitations application to federal habeas actions. *See* 28 U.S.C. § 2244(d).

Petitioner's motion must be denied. First, it is untimely. A motion for reconsideration must be filed within 14 days after entry of the judgment or order. Local Rule 7.1(h)(1). The Court issued its dismissal order and judgment on April 11, 2013. Petitioner dated the instant motion on November 14, 2013 – well beyond the 14-day time limit. His request for reconsideration is therefore untimely and must be denied.

Second, it lacks merit. Petitioner does not allege that the Court erred in denying his stay request and dismissing without prejudice his habeas petition. Rather, he relies upon events that largely occurred after the Court issued its decision. If Petitioner is having problems proceeding in

state court on collateral review and has concerns about the one-year limitations period, his proper recourse is to file a motion for relief from judgment with the state trial court (to toll the one-year period) and/or to file a new habeas petition in federal court and seek appropriate relief as necessary to proceed on habeas review.¹ This case was properly decided at the time of the Court's ruling and shall remain closed. Accordingly, the Court **DENIES** Plaintiff's motion for reconsideration.

IT IS SO ORDERED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: December 5, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 5, 2013, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5135

¹The Court's review of the Oakland County Register of Actions for Petitioner's criminal case reveals that the Petitioner filed a motion to exceed a page limit in the state trial court and the court issued an order denying that motion in October, 2013. *See* Oakland Co. Cir. Ct. Dkt., *People v. Paynter*, Case No. 2010-230856-FC, <http://apps.oakgov.com/crts0004/main>.